

REMARKS AND ARGUMENTS

O.A. No. 1. Claim Rejection – 35 USC § 103(a)

The rejection of Claims 1 and 2 under 35 USC § 103(a) as being unpatentable over United States Patent No. 6,019,050 (Ranta) is traversed and it is submitted that Examiner has not establish a *prima facie* case of obviousness.

Referring to Claims 1 and 2 that recite:

Claim 1 (previously amended) A work surface device for supporting a workpiece, comprising:

- a. a first member,
- b. a second member having a first section and a second section,
- c. a base member,
- d. said first member rotably hinged to said first section of said second member using rotatable friction hinges, said rotatable friction hinges providing for reversibly securely positioning said first member and said second member at a plurality of angles with respect to each other and with respect to said base member,
- e. said base member rotably hinged to said second section of said second member using rotatable friction hinges, said rotatable friction hinges providing for reversibly securely positioning said second member and said base member at a plurality of angles with respect to each other and with respect to said first member, and
- f. wherein said base member supports said device. [Emphasis added].

Claim 2 (original) The work surface device, as recited in Claim 1, further comprising a support means for supporting the workpiece on a first surface of said first member.

MPEP 2143.01 teaches that obviousness can only be established by modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so and where that motivation is found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Not only must there be a suggestion or motivation in the reference to make the modification, the prior art device must be capable of being modified to run the way the claimed apparatus does. Moreover, the suggested modifications of the prior art to meet the claimed invention must have been well within the ordinary skill of the art_at the time the claimed invention was made. Furthermore, the proposed modification cannot render the prior art unsatisfactory for its intended purpose, because if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. Additionally, if the proposed modification or combination of the prior art would change the principle of

operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Examiner states that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the use of friction hinges to the joint between the base and second members because this would allow the elimination of several components, simplifying the device.

However, as stated above, according to Patent Law and supported by the MPEP, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. Additionally, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Changing the design of Ranta to add friction hinges on the joint between the base and second members, would Examiner postulates, allow the elimination of several components, such as the support features indicated by reference no. **40**, this, however, would make the device inoperable. The support features, indicated by reference no. **40**, are required to hold the weight of work surface of Ranta’s device while in use, especially when the device is used to support a lap top computer, a heavy book, or a tray of food. It is unlikely that friction hinges could provide the support required by the structural design of Ranta’s device, especially when the device is used in the exaggerated positions the device alleges are possible, such as when the device is used by persons who must remain in a prone position (see electronically captured photo of Ranta’s device on next page).

PHOTO OF RANTA'S DEVICE



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Another serious problem that would occur, if the modification suggested by Examiner is made, is that it is physically impossible to add friction hinges to the joints between the base and second members and still have the device function as intended.

There is no room for the friction hinges. Positioning friction hinges onto the joints between the base and second members would cause the device to be lifted up off of the support surface. Positioning friction hinges onto the joints between the base and second members would also cause Ranta's device to be unstable, as the back of the device would not be on the same support plane as the front of the device. Looking at the patent drawings or the electronically captures website advertising picture (see above) shows clearly that the friction hinges used in the joints between the first member and second members would be too large in diameter to be used on the joints between the base and second members and be able to place the unit on a hard surface. The basic design of Ranta's device would have to be changed to accommodate the friction hinges on the joints between the base and second members and this, by law, is not allowed. Additionally, Ranta's invention uses channel aluminum for the supporting structure, as can be seen in both the patent drawings and the electronically captured photograph. Channel aluminum is not capable of being used in the way that Examiner is suggesting so the design of the device would have to be changed and this is not allowed.

Thus, it has been shown that the suggested modification would require a substantial reconstruction and redesign of the elements shown in Ranta, as well as a change in the basic principle under which the Ranta construction was designed to operate which negates any suggestion or motivation to modify the invention of the reference.

Therefore, it is respectfully submitted that a *prima facie* case of obviousness of the claimed invention has not been established and that Claims 1 and 2 are patentable.

O.A. No. 2. Claim Rejection – 35 USC § 103(a)

Referring to Claim 2: Claim 2 depends from Claim 1 and thus, contains, all of the limitations of Claim 1. It was shown above that the suggested modification would require a substantial reconstruction and redesign of the elements shown in Ranta, as well as a change in the basic principle under which the Ranta construction was designed to operate and that the teachings of Ranta are not sufficient to render the claims *prima facie* obvious, thus it holds that Ranta cannot be used as a reference to reject Applicant's Claim 2.

O.A. No. 3. Claim Rejection – 35 USC § 103(a)

The rejection of Claims 8, 11, and 12 under 35 USC § 103(a) as being unpatentable over United States Patent No. 6,019,050 (Ranta) in view of United States Patent No. 3,172,636 (Collier) is traversed and it is submitted that Examiner has not establish a *prima facie* case of obviousness.

Referring to Claim 8 that recites:

Claim 8 (original) The work surface device, as recited in Claim 1, further comprising a first edge of said base member shaped to conform to a shape of a person's lap.

Claim 8 depends from Claim 1 and thus, contains all of the limitations of Claim 1. It was shown above that the teachings of Ranta are not sufficient to render the claims *prima facie* obvious, thus it holds that Ranta cannot be used as a reference to reject Applicant's Claim 8.

Moreover Claim 8 recites:

“ . . . a first edge of said base member shaped to conform to a shape of a person's lap . . . ”

It is clear to see that Ranta's device is incapable of being used on or to be conformed to the shape of a person's lap. In fact, Ranta's device is deliberately designed so that is “base part legs” (46) will avoid a person's lap and must be placed on another supporting structure, such as a chair seat, a mattress, or the like.

Furthermore, as discussed above, the proposed modification cannot render the prior art unsatisfactory for its intended purpose, because if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. Additionally, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Modifying Ranta by replacing the double legged supported device of Ranta by the planar base of Collier would make Ranta unsatisfactory for its intended purpose, which is best understood by looking at the electronically captured picture of the device in use (see above). As is easily, visually understood, Ranta's device is deliberately designed to have separate and space apart leg supports that are intended to fit around (about) a user's lap or body and not on a user's lap. Using the design of Collier would

defeat that intended use. Therefore, combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, thus the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Thus, Applicant respectfully submits that a *prima facie* case of obviousness of the claimed invention has not been established and that Claim 8 is patentable.

Referring to Claims 11 and 12 that recite:

Claim 11 (previously amended) A work surface device for supporting a workpiece, comprising:

- a. a first member,
- b. a second member having a first section and a second section,
- c. a base member,
- d. said first member rotably hinged to said first section of said second member using rotatable friction hinges, said rotatable friction hinges providing for reversibly securely positioning said first member and said second member at a plurality of angles with respect to each other and with respect to said base member,
- e. said base member rotably hinged to said second section of said second member using rotatable friction hinges, said rotatable friction hinges providing for reversibly securely positioning said second member and said base member at a plurality of angles with respect to each other and with respect to said first member, and
- f. wherein said base member supports said device and a first shaped edge of said base member conforms to a shape of a person's lap. [Emphasis added].

Claim 12 (original) The work surface device, as recited in Claim 11, further comprising a support for supporting the workpiece on a first surface of said first member.

It can be seen that Claims 11 and 12 are nearly identical to Claims 1 and 2 except for the limitation of "wherein said base member supports said device and a first shaped edge of said base member conforms to a shape of a person's lap."

Therefore, as it was shown above there is no basis for modifying Ranta as described by Examiner, Ranta does not teach all of the claim limitations of the present invention, and combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, thus the teachings of the references are not sufficient to render the claims *prima facie* obvious, therefore Ranta and/or Collier may not be used as references to establish *prima facie* obviousness of the claimed invention.

Thus, Applicant respectfully submits that a *prima facie* case of obviousness of the claimed invention has not been established and that Claims 11 and 12 are patentable.

O.A. No. 4. Claim Rejection – 35 USC § 103(a)

Referring to Claim 12: Claim 12 depends from Claim 11 and thus, contains all of the limitations of Claim 11. It was shown above that modifying Ranta and/or combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, and that the teachings of the references are not sufficient to render the claims *prima facie* obvious, thus it holds that Ranta cannot be used as a reference to reject Applicant's Claim 12.

O.A. No. 5. Claim Rejection – 35 USC § 103(a)

The rejection of **Claims 3 - 7** and **13 - 17** under 35 USC § 103(a) as being unpatentable over United States Patent No. 6,019,050 (Ranta) in view of United States Collier and further in view of United States Patent No. 5,083,737 (Rifkin) is traversed and it is submitted that Examiner has not establish a *prima facie* case of obviousness.

Claims 3 - 7 either directly or indirectly depend from Claim 1 and **13 - 17** either directly or indirectly depend from Claim 11 and thus, as dependent claims contain all of the limitations of the claims from which they depend. It was shown above that modifying Ranta and/or combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, and that the teachings of the references are not sufficient to render the claims *prima facie* obvious, thus it holds that Ranta cannot be used as a reference to reject Applicant's **Claims 3 - 7** and **13 - 17**.

Moreover, the support means (28) of Rifkin is not, as is stated by Examiner, used to support a workpiece. Support means (28) is used to support a photograph or other small picture from which the artist is copying his or her painting. Anyone of ordinary skill in the art knows that one spring clip will not adequately support a workpiece, let alone support a workpiece at various angles, such as the various angles desired when an averaged sized piece of writing paper is being used on the work surface by left- and/or

right-handed writers. Such a clip would be of little use with either Ranta's device or Applicant's. Such a clip would hold a paper too high for ordinary use.

Thus, Applicant respectfully contends that **Claims 3 - 7** and **13 - 17** are in condition for allowance.

O.A. No. 6. Claim Rejection – 35 USC § 103(a)

Referring to **Claims 4 and 14 that recite:**

Claim 4 (original) The work surface device, as recited in Claim 1, wherein said device further comprises at least one receptacle means functionally adapted for holding a work tool.

Claim 14 (original) The work surface device, as recited in Claim 11, wherein said device further comprises at least one receptacle means functionally adapted for holding a work tool.

Claim 4 depends from Claim 1 and thus, contains all of the limitations of Claim 1. Claim 14 depends from Claim 11 and thus, contains all of the limitations of Claim 11. It was shown above, with reference to Claims 1 and 11, that modifying Ranta and/or combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, thus the teachings of the references are not sufficient to render the claims *prima facie* obvious. It also was shown above that the teachings of Ranta are not sufficient to render the claims *prima facie* obvious and that the holder means of Rifkin would not work for the intended purposes of either Ranta or Applicant, thus it holds that Ranta cannot be used as a reference to reject Applicant's Claims 4 and 14.

Thus, Applicant respectfully contends that **Claims 4 and 14** are in condition for allowance.

O.A. No. 7. Claim Rejection – 35 USC § 103(a)

Referring to **Claims 5 - 7 and 15- 17:**

Claims 5 - 7 depend from Claim 1 and thus, contains all of the limitations of Claim 1. Claims 15 - 17 depend from Claim 11 and thus, contains all of the limitations of Claim 11. It was shown above, with reference to Claims 1 and 11, that modifying Ranta as

suggested by Examiner and/or combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, thus the teachings of the references are not sufficient to render the claims *prima facie* obvious. It also was shown above that the teachings of Ranta are not sufficient to render the claims *prima facie* obvious and that the holder means of Rifkin would not work for the intended purposes of either Ranta or Applicant, thus Applicant respectfully contends that **Claims 5 - 7 and 15- 17** are in condition for allowance.

O.A. No. 8. Claim Rejection – 35 USC § 103(a)

The rejection of **Claims 9, 10, 19 and 20** under 35 USC § 103(a) as being unpatentable over United States Patent No. 6,019,050 (Ranta) in view of Collier and further in view of United States Patent No. 5,722,586 (Hansen) is traversed and it is submitted that Examiner has not establish a *prima facie* case of obviousness.

Claims 9 - 10 depend from Claim 1 and thus, contains all of the limitations of Claim 1. Claims 19 - 20 depend from Claim 11 and thus, contains all of the limitations of Claim 11. It was shown above, with reference to Claims 1 and 11, that modifying Ranta as suggested by Examiner and/or combining Ranta with Collier would both render the prior art invention being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art invention being modified, thus the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Thus Applicant respectfully contends that **Claims 9, 10, 19 and 20** are in condition for allowance.

O.A. No. 9. Claim Rejection – 35 USC § 103(a)

The rejection of **Claim 21** under 35 USC § 103(a) as being unpatentable over United States Patent No. 6,019,050 (Ranta) in view of United States Patent No. 3,172,636 (Collier) and further in view of Rifkin is traversed and it is submitted that Examiner has not establish a *prima facie* case of obviousness.

Referring to Claim 21 that recites:

Claim 21 (previously presented) A work surface device for supporting a workpiece, comprising:

- a. a first planar member for workpiece support,
- b. a second member having a first section and a second section,
- c. a planar base member for supporting the device on a surface, said planar base member shaped to fit comfortably about a person when the surface is a user's lap,
 said first planar member rotably hinged to said first section of said second member using rotatable friction hinges, said rotatable friction hinges providing for reversibly securely positioning said first planar member and said second member at a plurality of angles with respect to each other and with respect to said planar base member,
 said planar base member rotably hinged to said second section of said second member using rotatable friction hinges, said rotatable friction hinges providing for reversibly securely positioning said second member and said planar base member at a plurality of angles with respect to each other and with respect to said first planar member, and
- d. a support means for supporting the workpiece on a first surface of said first planar member, wherein said support means for supporting the workpiece comprises means for supporting the workpiece in various positions on said first surface of said first member. [Emphasis added]

As discussed in detail above, changing the design of Ranta so that there would be friction hinges on the joint between the base and second members because this would allow the elimination of several components, such as the support features indicated by reference no. **40** would make the device inoperable. Also discussed above is that it is physically impossible to add friction hinges to the joints between the base and second members and still have the device function as intended. It was shown that modifying Ranta, combining Ranta with Collier and combining Rants with Rifkin would make the art unsuitable for its intended purpose.

Thus, for all of the reasons presented above, Applicant believes that Examiner has not established a *prima facie* case of obviousness, and thus that Claim 21 is in condition for allowance.

O.A. No. 12. Examiner's comment

Examiner states: ". . .amended claim 1 contains limitations which in fact were not added to the claim. Claim 1 was accordingly addressed as written . . .

Examiner is correct in his observation. Claim 1 was not recited with the limitation shown in the Remarks Section. As this limitation was effectively addressed by Examiner as it appears in Claim 21 Applicant will not amend Claim 1 at this time. Applicant respectfully believes that as the claims stand that they are in condition for patentability.

CONCLUSION

The Prior art made of record and not relied upon was considered.

Applicant believes that all of the claims of the Application are now in condition for allowance. Accordingly, favorable consideration of the present application is respectfully requested so that it may timely pass to issue.

Respectfully submitted,

For Frederick Yovich, Applicant

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